

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

**SECOND AMENDED MASTER
SHORT FORM COMPLAINT FOR
DAMAGES FOR INDIVIDUAL
CLAIMS AND DEMAND FOR JURY
TRIAL**

Plaintiff(s) named below, for their Complaint against Defendants named below, incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc.364). Plaintiff(s) further show the Court as follows:

1. Plaintiff/Deceased Party:

David Dilbeck

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

N/A

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

N/A

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of implant: Tennessee

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury: Tennessee

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

Tennessee

7. District Court and Division in which venue would be proper absent direct filing:

8. Defendants (check Defendants against whom Complaint is made):



C.R. Bard Inc.



Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:



Diversity of Citizenship



Other: _____

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):



Recovery[®] Vena Cava Filter



G2[®] Vena Cava Filter



G2[®] Express Vena Cava Filter



G2[®] X Vena Cava Filter



Eclipse[®] Vena Cava Filter



Meridian[®] Vena Cava Filter

☐ Denali[®] Vena Cava Filter

☐ Other: _____

11. Date of Implantation as to each product:

07/05/2010

12. Counts in the Master Complaint brought by Plaintiff(s):

☒ Count I: Strict Products Liability – Manufacturing Defect

☒ Count II: Strict Products Liability – Information Defect
(Failure to Warn)

☒ Count III: Strict Products Liability – Design Defect

☒ Count IV: Negligence - Design

☒ Count V: Negligence - Manufacture

☒ Count VI: Negligence – Failure to Recall/Retrofit

☒ Count VII: Negligence – Failure to Warn

☒ Count VIII: Negligent Misrepresentation

☒ Count IX: Negligence *Per Se*

☒ Count X: Breach of Express Warranty

☒ Count XI: Breach of Implied Warranty

☒ Count XII: Fraudulent Misrepresentation

☒ Count XIII: Fraudulent Concealment

☒ Count XIV: Violations of Applicable TN (insert state) Law

Prohibiting Consumer Fraud and Unfair and Deceptive Trade Practices

☐ Count XV: Loss of Consortium

☐ Count XVI: Wrongful Death

- ☐ Count XVII: Survival
- ☒ Punitive Damages
- ☐ Other(s): _____ (please state the facts supporting this Count in the space immediately below)

RESPECTFULLY SUBMITTED this 29 day of June, 2016.

/s/ MATTHEW R. MCCARLEY

Matthew R. McCarley

Texas Bar No. 24041426

mccarley@fnlawfirm.com

FEARS NACHAWATI, PLLC

4925 Greenville Avenue, Suite 715

Dallas, Texas 75206

Tel. (214) 890-0711

Fax (214) 890-0712

ATTORNEY FOR THE PLAINTIFF

I hereby certify that on this 29 day of June, 2016, I

electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ MATTHEW R. MCCARLEY